IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05-07-2006

CORAM

THE HONOURABLE MR. JUSTICE A.KULASEKARAN

W.P. No. 19932 of 2006
&
M.P.Nos.1 & 2 of 2006

E.Vivekanandan ... Petitioner

Versus

1.The Government of Tamil Nadu
Represented by its Secretary
Highways Department
Fort St. George
Chennai - 600 009.

2.The District Collector
Kanchipuram
Kanchipuram District.

3.The Office of the Special Tahsildar, (LA)
Radial Road Schemes
Taluk Office Building
Tambaram, Chennai - 600 047. ... Respondents

Petition is filed under Article 226 of The Constitution of India to issue a Writ of Certiorari as stated therein.

For petitioner : Mr.V.Chandrakanthan

For respondent s : Mr.M.Dhandapani AGP

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O R D E R

This writ petition is filed praying for a Writ of Certiorari to call for the records, in G.O.Ms.No.68, Highways, Dated 26.4.2006 published in Tamil Nadu Gazette Extra Ordinary Part II - Section2, of the first respondent and quash the same.

2. The notice under Section 15(1) of Tamil Nadu Highways Act, 2001 (hereinafter referred as the Act) by the first respondent is challenged in this writ petition.

3. It is the case of the petitioner that he is the owner of the property comprised in Survey No.160 A/3A1 Part and now New No.160A/3A1B of Karapakkam Village, Tambaram Taluk, Kanchipuram District, having purchased the same in the year 1991; that the

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petitioner has also availed loan from Tambaram Co-operative Housing Society and constructed a building thereon; that the respondents herein have originally initiated proceedings under Tamil Nadu State Highways Act which was challenged by the petitioner herein in W.P.No.17169/2005 and the said writ petition was allowed by a common order dated 22.8.2005 by this Court. While allowing the said writ petition the respondents were granted liberty to issue notice under Section 15(2) of the Act afresh and to proceed further in accordance with law.

4. It is not in dispute that a notice under Section 15(2) of the Act was issued to the petitioner and the petitioner also submitted his objection on 14.10.2005 (Probably the date is wrongly mentioned). Thereafter the respondents have conducted an enquiry on 17.10.2005 and 26.10.2005; that the respondents have considered the objections of the petitioner and rejected it and thereafter they have issued notice under Section 15(1) of the Act.

5. The learned counsel for the petitioner submitted that enquiry was conducted without following the Rule 5 (4) of Tamil Nadu Highways Rules 2003; that the respondent failed to consider the objections filed by the petitioner properly; that the road is not declared under Section 3 of the Act as State Highway; that the petitioner has constructed the building in his land by availing loan from the Co-operative Society; that the petitioner has no other property except the property which is sought to be acquired by the respondents and prayed for quashing the notification issued under Section 15(1) of the Act.

6. Mr.M.Dhandapani, Additional Government Pleader, appearing for the respondents submitted that the said road was declared under Section 3 of the Act as State Highways by notification of the Government Gazette dated 22.10.2003. After the order passed by this Court in the said writ petition, the petitioner was issued with notice under Section 15(2) of the Act which was also received by the petitioner and he also submitted his objection; that thereafter enquiry was conducted on 17.10.2005 and 26.10.2005 and the objection of the petitioner was also considered and rejected; that thereafter notification under Section 15(1) of the Act was published; that the respondents have followed all the mandatory provisions of Law before initiating acquisition proceedings and prayed for dismissal of the writ petition.

7. This Court considered the arguments of the Counsel on either side and also perused the materials placed. It is not in dispute that the respondents have issued notice under Section 15(2) of the Act for which the petitioner also submitted his objections. The respondent considered all those objections and thereafter issued the notice under Section 15(1) of the Act. Under Section 3 of the Act declaring the road as State Highway was also made, hence, this Court is of the considered view that the respondents have complied with all the mandatory provisions of law before issuing notification under Section 15(1) of the Act and no interference of this Court is warranted.

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8. In the result, the writ petition is liable to be dismissed and accordingly, it is dismissed. No costs. Consequently, connected M.Ps. are closed.

jikr

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1.The Government of Tamil Nadu
Represented by its Secretary
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Fort St. George
Chennai - 600 009.

2.The District Collector
Kanchipuram
Kanchipuram District.

3.The Office of the Special Tahsildar, (LA)
Radial Road Schemes
Taluk Office Building
Tambaram, Chennai - 600 047.

1 cc to Government Pleader, SR.28855
1 cc to Mr.V.Chandrakanthan, Advocate, SR.28650

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dv/17.7.06

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